

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
ABILENE DIVISION

IN RE:	§	
JAMES THOMAS TURMAN	§	CASE NO. 06-10066-rlj13
NORMA LEE TURMAN	§	
	§	CHAPTER 13
DEBTORS	§	
<hr/>		
	§	
OCWEN LOAN SERVICING LLC AS	§	HEARING ON MOTION FOR
SERVICING AGENT FOR U.S.	§	RELIEF FROM STAY:
BANK N.A., IN ITS CAPACITY AS	§	
TRUSTEE FOR THE REGISTERED	§	DATE: FEBRUARY 4, 2009
HOLDERS OF MORGAN STANLEY	§	TIME: 11:00 A.M.
DEAN WITTER CAPITAL I INC.	§	
TRUST 2001-NC3, MORTGAGE	§	
PASS-THROUGH CERTIFICATES,	§	
SERIES 2001-NC3, ITS	§	
SUCCESSORS IN INTEREST AND	§	
ASSIGNS	§	
MOVANT	§	
vs.	§	
JAMES THOMAS TURMAN	§	
NORMA LEE TURMAN	§	
WALTER 12,13 OCHESKEY,	§	
TRUSTEE	§	
RESPONDENTS	§	

**MOTION FOR RELIEF FROM STAY AGAINST PROPERTY AS TO  
1634 MORROW LANE, ABILENE, TX 79601  
AND WAIVER OF THIRTY DAY REQUIREMENT**

**NOTICE OF THE REQUIREMENT OF THE FILING OF A RESPONSE TO THIS MOTION: IF YOU INTEND TO CONTEST THE RELIEF REQUESTED BY THIS MOTION, A RESPONSE IS REQUIRED. THE TRUSTEE OR THE DEBTOR SHALL FILE A RESPONSE TO ANY MOTION FOR RELIEF FROM THE AUTOMATIC STAY WITHIN TWELVE (12) DAYS FROM THE SERVICE OF THE MOTION. THE DEBTOR'S RESPONSE SHALL INCLUDE A DETAILED AND COMPREHENSIVE STATEMENT AS TO HOW THE MOVANT CAN BE "ADEQUATELY PROTECTED" IF THE STAY IS TO BE CONTINUED. IF THE DEBTOR DOES NOT FILE A RESPONSE AS REQUIRED, THE ALLEGATIONS IN THE CREDITOR'S MOTION FOR RELIEF FROM THE AUTOMATIC STAY SHALL BE DEEMED ADMITTED,**

**UNLESS GOOD CAUSE IS SHOWN WHY THESE ALLEGATIONS SHOULD NOT BE DEEMED ADMITTED, AND AN ORDER GRANTING THE RELIEF SOUGHT MAY BE ENTERED BY DEFAULT.**

COMES NOW, Ocwen Loan Servicing LLC ("Ocwen") as servicing agent for U.S. Bank N.A., in its capacity as Trustee for the registered holders of Morgan Stanley Dean Witter Capital I Inc. Trust 2001-NC3, Mortgage Pass-Through Certificates, Series 2001-NC3 ("Noteholder"), its successors in interest and assigns, and would respectfully show the Court as follows:

1. This Court has jurisdiction over this contested matter pursuant to 28 U.S.C. §§1334 and 157(b) and 11 U.S.C. §§105 and 362. James Thomas Turman and Norma Lee Turman ("Debtors") filed a Voluntary Petition for Relief under 11 U.S.C. Chapter 13 on March 14, 2006 ("Bankruptcy Case"). Ocwen desires to waive the requirement of a hearing within 30 days under 11 U.S.C. §362(e).

2. At the time the Bankruptcy Case was filed, Debtor was indebted to Noteholder pursuant to a Texas Home Equity Note (Fixed Rate - First Lien) ("Note"), executed on September 24, 2001, in the original amount of \$55,200.00, with interest thereon. A true and correct copy of the Note is attached hereto as Exhibit A and incorporated herein by reference for all purposes.

3. The obligation of Debtor to pay the Note is secured by a Texas Home Equity Security Instrument (First Lien) ("Security Instrument"), dated September 24, 2001. The Security Instrument was duly recorded in the real property records of Taylor County. A true and correct copy of the Security Instrument is attached hereto as Exhibit B and incorporated herein by reference for all purposes. The Security Instrument grants a lien on certain real property ("Property") described as:

LOT 30, BLOCK J, SECTION 2, UNIVERSITY HILLS ADDITION TO THE CITY OF ABILENE, TAYLOR COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN CABINET 1, SLIDE 377, PLAT RECORDS, TAYLOR COUNTY, TEXAS.

The Property is also known as 1634 Morrow Lane, Abilene, Tx 79601.

Noteholder is the present owner and beneficiary of the Note and Security Instrument.

4. Debtor is in breach of the obligations set forth in the Security Instrument. As of the filing of this pleading, the Note is post-petition due for the October 1, 2008 payment and all subsequent post-petition payments. Debtor failed to pay the monthly installments due under the Note for the months of September 2008, November 2008, December 2008 and January 2009. In support of the allegations contained in this Motion, attached hereto as Exhibit C and incorporated herein by reference for all purposes is a business records affidavit executed by a custodian of the business records for Ocwen.

5. The Debtor's failure to pay the post-petition monthly installments when due under the Note constitutes "cause" to terminate the automatic stay pursuant to 11 U.S.C. §362(d)(1).

6. Upon information and belief, the value of the Property (\$93,000.00) is more than the unpaid principal balance due and owing on the Note (\$52,629.67). Because the Debtor has equity in the Property, pursuant to 11 U.S.C. §522, Ocwen is entitled to reasonable fees, costs, or charges provided for under the terms of the Note and Security Instrument.

WHEREFORE, PREMISES CONSIDERED, Ocwen prays that this honorable Court enter an Order terminating the automatic stay of 11 U.S.C. §1301 as to the Property, or, alternatively, enter an Order modifying the automatic stay of 11 U.S.C.

§362 by requiring Debtor to adequately protect Ocwen's interest in the Property through the payment of timely post-petition installments and for such other and further relief to which Ocwen may show itself to be justly entitled, either at law or in equity.

Respectfully submitted,  
BAXTER & SCHWARTZ P.C.

By: /s/ Cristina Platón Camarata  
State Bar Number 16061560  
5450 Northwest Central, Suite 307  
Houston, Texas 77092  
Telephone: 713/933-1547  
Facsimile: 713/933-2447  
Email: ccamarata@baxterschwartz.com  
ATTORNEYS FOR Ocwen  
B&S Number: 220.006689

**CERTIFICATE OF CONFERENCE**

I hereby certify that counsel for Debtor was contacted at least forty-eight (48) hours prior to the filing of this Motion for Relief from Stay, evidenced as follows:

**DATE &  
TIME**

12/05/08  
9:51 a.m.

**COMMENTS**

Spoke with Chastity at Monte J. White & Associates. She is opposed to the Motion.

By: /s/ Cristina Platón Camarata  
BAXTER & SCHWARTZ P.C.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Motion for Relief from Stay of Act Against Property was served on the parties listed below, at the addresses indicated via electronic delivery or by deposit in the United States Mail, first-class postage pre-paid on January 8, 2009.

By: /s/ Cristina Platón Camarata  
BAXTER & SCHWARTZ P.C.

Debtor:

James Thomas Turman  
Norma Lee Turman  
1634 Morrow Lane  
Abilene, TX 79601

Debtor's Attorney:

Monte J. White via ecf  
Monte J. White & Associates  
402 Cypress, Suite 310  
Abilene, TX 79601

Chapter 13 Trustee:

Walter 12,13 OCheskey  
6308 Iola Avenue  
Lubbock, TX 79424

United States Trustee:

1100 Commerce Street  
Room 976  
Dallas, TX 75242-1496